



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re the Application of: **Hisaji MATSUI et al.**

Group Art Unit: 1754

Serial No.: **09/868,620**

Examiner: **Peter J. Lish**

Filed: **June 25, 2001**

P.T.O. Confirmation No.: 1040

For: **AMORPHOUS NANO-SCALE CARBON TUBE AND PRODUCTION METHOD
THEREFOR**

RESPONSE TO THE RESTRICTION REQUIREMENT
DATED October 25, 2002

Commissioner for Patents
Washington, D.C. 20231

November 20, 2002

Sir:

This paper is submitted in response to the Official Action dated **October 25, 2002**.

In the Action, restriction is required between Group (I), Claims 1-10 and 27; Group (II), Claims 11-12; and Group (III), Claims 13-19.

Applicants hereby elect the subject matter of Group (I), Claims 1-10 and 27, for prosecution in this application. This election is made with traverse of the restriction requirement. It is also understood that the applicants' rights to the filing of a divisional application directed to the non-elected subject matter under 35 USC 120 and 35 USC 121 are retained.

In traversing the restriction requirement, Applicants note that the present application is a §371 National phase of an International application. Accordingly, PCT rules regarding Unity of Invention must be applied in any restriction requirement (see MPEP 802). However, the Examiner has not made any statement regarding lack of "unity of invention", nor any discussion of "special technical features" of the three proposed restriction groups. Applicants therefore respectfully assert that the restriction requirement is improper, and respectfully request withdrawal of the restriction requirement and examination of all of the claims.

In the event that this paper is not timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 01-2340.

In the event any additional fees are required in connection with this response, please charge our Deposit Account No. 01-2340.

Respectfully submitted,

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